

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JORGE DIAZ RUIZ,

Defendant.

Case No. 15-cr-70725 MAG

DETENTION ORDER

Hearing: June 17 and 24, 2015

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), the court on June 17 and 24, 2015, held a detention hearing to determine whether any condition or combination of conditions will reasonably assure the appearance of the defendant Jorge Diaz Ruiz as required and the safety of any other person and the community. Defendant Ruiz was present, represented by his attorney AFPD Graham Archer. The United States was represented by Assistant U.S. Attorney William Gullotta. Ruiz is charged by criminal complaint with possession with the intent to distribute a controlled substance (methamphetamine, five grams or more) in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B). The defendant is presumed innocent of the charge.

The detention hearing was held publicly. Both parties were advised of their

1 opportunity to call witnesses and to present evidence. Both parties may appeal this
2 detention order to the San Jose General Duty District Court Judge.

3 I. PRESUMPTIONS

4 /X / There is probable cause based upon the Complaint to believe that the defendant
5 has committed an offense for which a maximum term of imprisonment of 10 years or more
6 is prescribed in 21 U.S.C. § 801 et seq., § 951 et seq., or § 955a et seq.,

7 II. REBUTTAL OF PRESUMPTIONS

8 / X / The defendant has not come forward with sufficient evidence to rebut the
9 applicable presumption, and he therefore will be ordered detained.

10 III. WRITTEN FINDINGS OF FACT AND STATEMENT OF REASONS

11 / X / The court has taken into account the factors set out in 18 U.S.C. § 3142(g) and
12 all of the information submitted at the hearing and finds as follows: The Court adopts the
13 facts set forth in the Pretrial Services (PTS) Reports prepared June 16 and June 23, 2015,
14 supplemented by information presented at the hearing. The court finds by more than clear
15 and convincing evidence that the defendant poses a serious danger to the community that
16 may not reasonably be mitigated by a combination of release conditions. The following
17 factors establish the danger: history of drug and alcohol abuse, multiple arrests while on
18 probation, and numerous weapons (extended magazine, ammunition, and body armor)
19 seized from defendant's residence and vehicle at time of arrest in this case. Considering
20 these same factors, plus defendant's lifelong residence in this District, familial ties in this
21 District, and past travel to Mexico, the court finds that a combination of conditions
22 (including halfway house) could reasonably mitigate any risk of non-appearance.

23 Potential sureties were identified by PTS and at the hearing: Jessica Garcia
24 (defendant's cousin, employed part-time at restaurant), and Nellie Gutierrez (defendant's
25 girlfriend, employed full-time as cashier, with job that began June 8, 2015). The court
26 agrees with PTS that these sureties were not sufficient. The court may reconsider the
27 detention order if additional sureties are proposed.

IV. DETENTION DIRECTIONS

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on the request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

IT IS SO ORDERED.

Date: June 29, 2015


Nathanael M. Cousins
United States Magistrate Judge